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Capstar TX LLC
2625 S. Memorial Drive, Suite A
Tulsa, OK 74129

In Re: WPKX(FM), Enfield, CT
Facility ID #46965
Capstar TX LLC
BPH-20100317ABD

Dear Applicant:

This letter refers to: (1) the above-captioned minor change application to modify the effective radiated power and height above average terrain with a directional antenna system at new location; and (2) the April 15, 2010 Informal Objection filed by CBS Radio Inc.

An engineering study of the application reveals that the proposed facility fails to provide adequate community coverage as required by 47 C.F.R. § 73.315. Specifically, the proposed 70 dBu contour, using the standard contour prediction method in Section 73.313(e), fails to cover at least 80 percent of the community of license of Enfield, CT. WPKX's application acknowledges this situation, and provides a supplemental showing based on Longley-Rice propagation methodology to demonstrate that, in fact, a signal strength of 70 dBu will be provided to 81.4% of Enfield, CT.

However, WPKX fails to demonstrate that its 60 dBu protected service contour covers the entire community of Enfield, CT. Thus, WPKX must amend the application to show that its proposed facility would cover the entire community of license with its protected 60 dBu service contour. The staff will not review a supplement Longley Rice coverage showing until this requirement is met.

This policy results from *Letter re KDAY (FM), Independence, CA*, DA 94-510, 9 FCC

[o]utside of this [protected service] contour, interference from other cochannel and adjacent channel stations can occur under our rules. It simply is not possible, under any rational allocations scheme, to protect FM stations to the point at which the signal is too weak to receive. Thus, the potential exists that another station could be authorized or modified which would not interfere with KDAY's 54 dBu protected service contour, but would interfere with KDAY's service to Independence.... KDAY would have no standing to contest any interference created in this manner, since the Commission's rules do not protect any service outside the ... protected contour.

The KDAY decision continues:

The association of a broadcast station with a community of license is a basic tenet of the Commission's allocations scheme for broadcast stations. Section 307(b) of the Communications Act of 1934, 47 U.S.C. § 307(b), mandates that the "Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution to each of the same." Implicit in this statement is a recognition that the Commission must protect such service to the community of license from interference from other stations. Moreover, the community coverage rule is designed to insure that the community of license receives a premium signal. *Lester H. Allen*, 17 FCC 2d 225, 226 (1969). In the present instance, such assurance cannot be given.

The KDAY decision continues that even had that applicant's supplemental analysis shown that the required coverage was provided to all of the community of license, the waiver request would still not have been found to be in the public interest. The staff summed up its position in explicit terms:

Simply put, the Commission will not authorize a station to serve a community located outside its protected service contour, as predicted by the standard contour prediction method in § 73.313(e), since service to that community cannot be protected from interference under our rules.

identified by the staff.” Additionally, Section 73.3564(a)(3) of the Commissions’ Rules² states, “Applications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for corrective amendment.” See Appendix B of the Report and Order in MM Docket 91-347, 7 FCC Rcd 5074, 57 Fed. Reg. 34872 (published August 7, 1992). This letter constitutes the opportunity for corrective amendment pursuant to Section 73.3522(c)(2).

Further action on the subject application will be withheld for 30 days from the date of this letter to provide an opportunity to reply. Failure to correct all tender and acceptance defects within 30 days from the date of this letter will result in dismissal of the application with no further opportunity for corrective amendment pursuant to Section 73.3564(a). Furthermore, failure to respond within 30 days will result in the dismissal of the application pursuant to Section 73.3568 of the Commission’s Rules.³ This letter does not imply any judgment on the April 15, 2010 Informal Objection filed by CBS Radio Inc.

Sincerely,



Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Marissa G. Repp, Esq.
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